IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 1275 of 1995

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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VIJAYKUMAR BABULAL JAYSWAL - Applicant(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR SATISH A PANDYA for Applicant(s) : 1,
MR MR MENGDEY, APP for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 04/10/2007

ORAL JUDGMENT

The petitioner had filed a complaint against a police officer, namely, Police Inspector, Sabarmati Police Station. The concerned Magistrate sent the complaint for inquiry under section 156(3) of the

Criminal Procedure Code to PSI, Sabarmati. The grievance of the petitioner, therefore, is that the very same officer against whom he has filed complaint is asked to inquire into the allegations.

2. During the pendency of this petition, this Court had granted stay in terms of para 8(B) of the petition and thereby prevented the Police Inspector, Sabarmati Police Station from investigating into the complaint of the petitioner.

3. By all accounts, the same police officer against whom allegations are made cannot be the person who would inquire into such allegations. The grievance of the petitioner was, therefore, perfectly justified. After more than 10 years now, in all likelihood, the officer would have been changed and therefore, there would be no difficulty in the investigation being carried out by the present Police Inspector of Sabarmati Police Station. In any case, if the police officer against whom allegations were made by the petitioner is still holding the same position, it is directed that the investigation shall be transferred and handed over to some other officer. This, however, would not be necessary if the officer concerned has already been transferred and post is being held by some other officer.

4. With the above observations and directions, the petition is disposed of. Rule is made absolute accordingly.

(Akil Kureshi, J.)

(vjn)